

Memorandum

To: Members, Planning and Zoning Commission

From: Michelle Perillie, AICP/CFM, Planner

Date: October 2, 2020

Re: Text Amendment #785/P&Z Appl. #20-00615 to remove "Maximum Multi-Family Dwellings"

Statutory Time Lines (*No Statutory Deadlines for Text Amendments authored by the P&Z Commission*)

Application Submission Date: 9/3/20

Application Receipt Date: 9/10/20

Public Hearing Scheduled to Open: 10/8/20

Summary

Have all documents been submitted as required pursuant to §42?	Yes.
Has the application received all necessary prior approvals?	Prior approvals are not required. All comments received are listed herein. Outstanding comments when received will be forwarded to Commissioners via email and uploaded to the Town's website alongside the application materials.
Other comments?	Members of the Planning and Zoning Commission should consider whether the text amendment is consistent with the Zoning Regulations, Zoning Map and the <i>2017 Plan of Conservation and Development</i> as required pursuant to C.G.S. §8-2, <i>Regulations</i> . The Commission should also determine if the amendment will benefit the Town, pursuant to §42 of the Westport Zoning Regulations.

Description of Application

Applicant	Planning and Zoning Commission
Requested Action	Text Amendment approval

Purpose	<p>The proposal is to:</p> <ol style="list-style-type: none"> 1. Delete §4-5, Maximum Multi-Family Dwelling; 2. Delete §19B-8.9, Application Requirements, Residential-Rental Housing Opportunity /Workforce Zone (R-RHOW); and 3. Delete §32-15B.18, Exemptions, Age Restricted Housing (ARH). <p><u>The amendment, if adopted as submitted, will remove the existing 10% limit on multi-family dwellings throughout town.</u></p>
Location	Town-wide
2017 Plan of Conservation and Development	<p>Chapter 10, (Guide Residential Development) states:</p> <p>§10.1 Overview-Maintain the preponderance of single-family home, increase housing diversity as to size of units and promote housing affordability;</p> <p>§10.4, Monitor Changing Housing Needs; and</p> <p>§10.5, Continue to Address Housing Needs.</p> <p>Relevant recommendations to achieves these goals include:</p> <ul style="list-style-type: none"> • “Seek ways to address changing housing needs while maintaining the character and integrity of Westport.” Pg. 85 • “Consider ways of integrating affordable and workforce housing in future projects.” Pg. 85 • “Support and encourage non-profit organizations that help address housing needs in ways that maintain the character and integrity of Westport.” Pg. 85 • “Consider ways of collaborating with public and private organizations in terms of addressing housing needs.” Pg. 85 • Continue to address housing needs in Westport (affordable, aged, special needs, ADA). Pg. 88 • “Seek to address affordable housing in ways that are appropriate for the community rather than dictated by private developers.” Pg. 88
Applicable Regulations	§4-5, Maximum Multi-Family Dwellings; §19, Residential-Rental Housing Opportunity /Workforce Zone (R-RHOW); §32-15B, Age Restricted Housing (ARH) and §42, Amendment of Zoning Regulations

Current Status of Multi-Family Dwellings in Westport

The 2018 American Community Survey of the US Census reported that there are **9,289** single-family, detached dwelling units in Westport. Therefore **929** multi-family units are now permitted in Town.

The Planning & Zoning staff research has determined that there are 1,220 approved multi-family dwelling units in town. Of these, 286 units are affordable and meet §8-30g of the CT General Statutes, and 65 additional market rate units have been approved in the R-RHOW zoning district and are therefore, not included in the calculation of the cap. The remaining 869 multifamily units count toward the cap. Therefore, if you subtract the 869 approved affordable and market rate units from the 929 allowable, **60 additional market rate multi-family dwellings can be approved before the cap is reached.** See attach Multifamily Cap Memo and Spreadsheet, dated 8/28/20.

Two developments were approved by the court but have not been added to this list. (57,79 & 85 Post Road West/1, 19 & 37 Lincoln Street - 81units with 25 affordable and 122 Wilton Roads, 19 units with 6 affordable). **The addition of these market rate units to the calculation will exceed the 10% allowable multi-family units.**

Subcommittee Background

The Affordable Housing Subcommittee of the Planning and Zoning Commission was created at the Annual Meeting held in January 2018 by P&Z Member Danielle Dobin who offered to serve as Committee Chair. Additional members include Michael Cammeyer, Chip Stephens, Jon Olefson and Neil Cohn. The Subcommittee created the following Mission Statement and Committee Objectives:

Mission Statement:

To encourage the pro-active development and preservation of affordable housing choices for the present and future residents of Westport, including the development of affordable housing for families.

Objectives:

- *Work to spark a town-wide community conversation*
- *Engage the public in this debate with the goal of creating various affordable housing development strategies, specifically looking at public/private partnership as to how to achieve our next two to three certificates of compliance.*

During the 6/9/20 Subcommittee meeting, there was consensus that an amendment to remove §4-5 should be brought to the Planning and Zoning Commission. The Planning and Zoning Commission discussed the proposed amendment at their 6/11/20 work session and there was a sense of the meeting that the amendment should be submitted on behalf of the Commission.

Proposal/Analysis

Text Amendment #785 dated 9/3/20 revised 9/18/20 proposes to delete §4-5, Maximum Allowable Multi-Family Dwellings, in its' entirety as well as any references to the section including:

1. *§19B-8.9, Application Requirements, Residential-Rental Housing Opportunity /Workforce Zone (R-RHOW).*
2. *§32-15B.18, Exemptions, Age Restricted Housing (ARH).*

As shown in the history of the regulation, revised 9/18/20 and found online on the Town's website [here](#), the regulation has been changed many times to exempt certain types of housing units from this section. Multi-family housing that is Affordable per the definition in CGS §8-30g and market rate units per §19B, Residential-Rental Housing Opportunity /Workforce Zone (R-RHOW), §32-15B.18, Age Restricted Housing (ARH), §32-27, Special Needs Housing and §39A-3, Inclusionary Housing Overlay District are exempt from the inclusion in Maximum Multi-Family Dwellings per §4-5. The regulations limits the exemption under §19B, §32-15B, §32-27 and §39-A-3 to a maximum of 200 units.

Additional units under §19B are not permitted as there is a sunset provision which only permitted the development of 1177 Post Road East.

Benefits

Adoption of this amendment will remove potential obstacles for multi-family housing opportunities and allow the Planning and Zoning Commission to better plan, rather than continue to carve out exceptions for desirable multi-family development.

Without deleting the language in §4-5, the only non-single family home development that will be permitted in the future would be the development of affordable units and those units permitted in §32-15B, §32-27 and §39A-3. All other types of development, including townhomes, apartments and condominiums, will no longer be permitted.

Feedback received from local/regional/state departments, agencies, and boards

Following receipt of Text Amendment #785 it was referred for comments to Town departments, regional planning agencies, and the Department of Energy and Environmental Protection (DEEP) as required by State Statutes for any Text Amendment that could impact properties located within 500' of the municipal boundary line and/or properties located within the Coastal Area Management boundary.

The Metropolitan Council of Governments or MetroCOG is a regional planning agency that represents the interests of Towns located east of Westport including Bridgeport, Easton, Fairfield, Monroe, Stratford, and Trumbull. A referral was sent to MetroCOG as properties within 500' of the Westport/Fairfield Town-line could be impacted by the Text Amendment if adopted. MetroCOG submitted comments dated 9/24/20 concluding there is no regional significance. The comments also observe the

amendment appears to be consistent with several goals found in the 2017 *Plan of Conservation and Development*. MetroCOG's comments dated 9/24/20 are available online on the Town's website [here](#):

The Western Connecticut Council of Governments or WestCOG is a regional planning agency that represents the interests of Towns located west of Westport including Norwalk, Weston and Wilton. A referral was sent to WestCOG as properties within 500' of the Westport/Norwalk/Wilton Town-line could be impacted by the Text Amendment if adopted. WestCOG submitted comments dated 9/4/20 concluding the amendment is of local interest and with minimal intermunicipal impact. Therefore, it is not being forwarded to adjacent municipalities and the regional staff is making no comment. WestCOG's comments dated 9/4/20 are available online on the Town's website [here](#):

A referral was sent to the Department of Energy and Environmental Protection (DEEP) as properties within the Coastal Area Management boundary could be impacted by the Text Amendment if adopted. DEEP submitted comments dated 9/24/20 stating their office has reviewed the amendments for consistency with the policies and standards of the Connecticut Coastal Management Act (CCMA), and find them to be consistent with the CCMA.

Comments were received from Jennifer Fava, Parks and Recreation Director, dated 9/28/20 indicating as the population increases there may be greater demands on Town parks, beaches and recreation facilities.

Comments from Alicia Mozian, Conservation Director, dated 9/28/20 indicate that the Conservation Department does not have a concern with eliminating the cap on multi-family development if that is the housing need. However, she also indicates more dense development can have an impact on natural resources. Ms. Mozian recommends the Commission continue to maintain safeguards in the development standards that protect our natural resources including our aquifers, groundwater, floodplains, wetlands, watercourses and Long Island Sound. Lastly, she suggests consideration be given to incentivizing repurposing or renovating existing buildings to serve our housing needs and offering a wider variety of housing stock.

Comments from Peter Gelderman, Town Attorney, dated 10/2/20 state, *"in light of the potential action in Woodbridge, where it appears that no multi-family units are allowed, there is a risk that litigation could be brought challenging the validity of the cap."*

Public Hearing and Notice to the Public related to Text Amendment #785

Consistent with Executive Order No. 7B, the Planning and Zoning Commission's public hearing will be held remotely, will be recorded, and all information made accessible to the public on the Town's website in advance of the meeting. The Town of Westport has the resources and capacity to make the remote meeting accessible to the public as it will be live streamed on www.westportct.gov and accessible on Optimum Government Access Channel 79 and Frontier Channel 6020.

Notice of the meeting was provided 10-days prior to the meeting via the Town's website consistent with EO No. 7B. The meeting notice provides members of the public options to comment prior to the meeting by submitting comments to PandZ@westportct.gov as well as during the meeting by submitting comments to PandZComments@westportct.gov. Additionally, the meeting notice provides the option for members of the public to participate "live" utilizing Zoom technology during the meeting if the Zoom meeting link is requested by Noon on the day the public hearing is scheduled. The Planning and Zoning Commission will be conducting their work in a manner above and beyond what is required under the Governor's Executive Order to both enhance public transparency and to keep the public, the applicant, and the Commissioner's safe by practicing social distancing.

Several letters from residents have been received and found [here](#):

Considerations

C.G.S. §8-2, *Regulations*, requires consideration by the Planning and Zoning Commission that regulations shall be made in accordance with a comprehensive plan (Zoning Regulations and Zoning Map) and in adopting such regulations the Commission shall consider the Plan of Conservation and Development.

Westport continues to strive to achieve a balance between what may be perceived as competing goals to maintain the existing single-family neighborhood character that attracted many of its residents to locate to Westport while simultaneously creating more affordable housing opportunities to retain existing residents and enable others to locate to Westport. These competing goals are articulated in the Overview of the Residential chapter of the 2017 *Plan of Conservation and Development* (POCD) which recommends Westport, "Maintain the preponderance of single-family homes, increase housing diversity as to size of units, and promote housing affordability," pg. 79.

Department Comments

Board of Education:	Referral sent
Building Official:	Referral sent
Conservation Director:	<i>"Therefore, the Conservation Department does not have a concern with eliminating the cap on multi-family development per se especially if that is the need most reflective of our times. However, what we would not want is to lose sight of the environmental impact that more density may have on our natural resources – which is one of the reasons the cap was established in the first place. Whatever future planning tools the P&Z Commission provides for to allow for more multi-family, whether it be affordable or market rate, it should still incorporate safeguards in the development standards that protect our natural resources including our aquifers, groundwater, floodplains, wetlands, watercourses and Long Island Sound. Consideration should also be given to incentivizing repurposing or renovating existing buildings to serve</i>

	<i>our housing needs and offering a wider variety of housing stock. This would be the most sustainable option.” 9/28/20</i>
Parks & Rec. Director:	<i>“Multi-family dwellings allow for greater numbers of people to move into Town, increasing our population. Please keep in mind that as population increases, there may be greater demands on the Town’s parks, beaches and recreational facilities.” 9/1/20</i>
Police Dept.:	<i>“We have no public safety concerns with this application.” 9/25/20</i>
Public Works Dept.:	<i>“No comment.” 9/17/20</i>
Town Attorney’s Office:	<i>“I have no comment other than to state that the elimination of the cap is consistent with a policy that favors housing diversity and fairness.” 9/30/20</i> <i>“In addition to my previous comments, I would add that in light of the potential action in Woodbridge, where it appears that no multi-family units are allowed, there is a risk that litigation could be brought challenging the validity of the cap.” 10/2/20</i>
WWHD Director:	<i>“The WWHD has no comment on the removal of this section of the Zoning Regulations.” 9/29/20</i>
MetroCOG:	Comments dated 9/24/20 conclude the amendment is NOT regionally significant. Additional observations are offered by MetroCOG staff, see letter dated 9/24/20 from Matt Fulda, Executive Director, available online on the Town’s website here :
WestCOG:	<i>“The opinion of WestCOG staff is that the proposal is of local interest and with minimal intermunicipal impact. Therefore, it is not being forwarded to adjacent municipalities and the regional staff is making no comments.” 9/4/20</i>
DEEP:	<i>“Our office has reviewed the amendments for consistency with the policies and standards of the Connecticut Coastal Management Act (CCMA), and we find them to be consistency with the CCMA.” 9/25/20</i>

Available in the File and Online on the Town’s website [here](#):

- Text Amendment #785, revised 9/18/20
- Text Amendment #785 Explanatory Statement, revised 9/18/20
- Memo on Maximum Multi-Family Dwellings under §4-5, prepared by M. Perillie, revised 8/28/20
- Memorandum on History of §4-5, prepared by M. Perillie, revised 9/18/20
- Conservation Comments, dated 9/28/20

- Letter from Kristin Floberg, Planner, MetroCOG, dated 9/4/20
- Letter from Matt Fulda, Executive Director, MetroCOG, dated 9/24/20
- Letter from Jessica Purcell, dated 9/3/20
- Letter from Rick Redniss, dated 9/6/20
- Letter from Emma-Jean Weinstein, dated 9/6/20
- Letter from Larry Weisman on behalf of Coalition, dated 9/15/20
- Letter from Claudia Chan, dated 9/27/20
- Letter from Ashley Peate, dated 9/30/20
- Letter from Stacie Shamie, dated 10/1/20
- Letter from Lou Mall, dated 10/1/20
- Letter from Kris Hamlin, dated 10/1/20
- Letter from Andre Colabella, dated 10/1/20